

1SUPPORTING STATEMENT  
UNITED STATES INTERNATIONAL TRADE COMMISSION QUESTIONNAIRE

*Miscellaneous Tariff Bill Petition System*

Part A—Justification

**1. Request for regular action**

The U.S. International Trade Commission (“USITC” or “Commission”) is seeking approval for collecting information related to requests for temporary tariff relief on imported goods submitted to the Commission as a result of the American Manufacturing Competitiveness Act of 2016 (“the Act”) (19 U.S.C. 1332 note).

The Act requires the Commission to establish a process to receive petitions that will take the place of individual miscellaneous tariff bills, and specifies the contents of such petitions. The Act also provides that these petitions must be made available on the Commission’s website so that public comment on each one may be filed. The Act specifies the contents of preliminary and final reports the Commission must issue, and requires the Commission to make several determinations concerning the petitions. Lastly, the Act requires the Commission to make particular recommendations concerning the petitions and provide the necessary information to Congress that will permit Congress to decide which petitions should be included in a miscellaneous tariff bill. The Act specifies the schedule for collection of petitions and for the Commission to submit a report to the House Committee on Ways and Means and the Senate Committee on Finance (“Committees”) containing information and its determinations. The Act mandates that the Commission conduct two cycles and begin accepting petitions, thereby collecting the information for which this approval is sought, not later than October 15, 2016 and October 15, 2019, respectively

On June 15, 2016 the Commission posted its draft intake and comment forms on its website ([www.usitc.gov/mtbps](http://www.usitc.gov/mtbps)), and published a request for public comments in the *Federal Register* on the draft forms. Public comments were accepted through August 16, 2016.

**2. Purpose**

The Commission will review and analyze the information provided and use it as a basis for the determination(s) it makes in the preliminary and final reports to the Committees, which are prescribed by the legislation. Initial review and analysis will be performed by Commission staff, with preliminary and final reports approved by the Commission.

**3. Use of technology**

In its report on the legislation, the House Committee on Ways and Means stated that it expects the ITC’s website will contain a fully searchable portal for submission of petitions and comments. The Commission will collect information electronically via a portal the Commission is currently developing and will be available on its website. This portal will be deployed not later than October 15, 2016. The Commission believes this effort supports the aims of the Paperwork Reduction Act as well as facilitates expedient review under the deadlines set out in the legislation. The Commission plans to issue guidance that will help submitters prepare in advance for their electronic submissions. This guidance coupled with a user-friendly, click-through, electronic submission portal reduces the burden in composing a petition and comments on submitted petitions.

**4. Non-duplication of available data**

The information collected through the Commission's electronic portal is limited to the information required by the Act and information not already publicly available but needed for Commission analysis of petitions. To the extent possible, the Commission's analysis will rely on existing publicly available data. Commission staff has reached out to government, academic, and industry leaders, and have confirmed that there are no existing data that addresses the data needs that should result from the petition. Further, after a thorough background search of data sources for this process, it has been determined that no other industry, government, or academic organizations collect or publish data that are duplicative of the data requested in the petition.

#### **5. Impact on small businesses**

In developing the electronic portal, which petitioners will utilize to submit petitions and interested parties will use to submit comments on petitions, the Commission drew upon user experiences that should be familiar to the seasoned practitioner and small-business owner alike, i.e., click-through screens, help bubbles and text, and confirmation pages. It is expected that this format, in addition to maintaining a robust library of help documentation and ensuring Commission staff are available to answer questions in a timely fashion should minimize the burden on small entities. In addition, the Commission is committed to making the portal and any concomitant help documentation compliant with Section 508 of the Rehabilitation Act of 1973, 29 U.S.C. 794d.

#### **6. Consequences of non-collection**

If this collection is not conducted the Commission will not be able to produce its statutorily mandated reports required by this legislation. The legislation prescribes the contents of each petition and also indicates that petitions are to be made available to the public on a website of the Commission. Electronic collection of the information the Commission has proposed in its intake and comment forms is therefore the best way to address what the legislation prescribes.

#### **7. Frequency of data collection**

This recurring data collection repeats twice based on the current legislation. The first cycle will begin not later than October 15, 2016 and end not later than 300 days thereafter, and the second cycle will begin by October 15, 2019, and proceed on the same schedule.

#### **8a. Consistency with 5 CFR 1320.6 guidelines**

No special circumstances exist that require the collection to be conducted in a manner inconsistent with the guidelines of 5 CFR 1320.6. If any respondents do not maintain information in the format requested by the petition, they are requested to submit carefully prepared estimates based upon available information.

#### **8b. Consultations with affected public**

The Commission's 60-day notice requesting public comment was published in the *Federal Register* on June 15, 2016. The notice and other information related to this process were published on the Commission's website at [www.usitc.gov/mtbps](http://www.usitc.gov/mtbps). Eleven (11) public comments were received.

The Commission's 30-day notice of submission to OMB requesting clearance was published in the *Federal Register* on August 25, 2016. The notice is also posted on the Commission's website at [www.usitc.gov/mtbps](http://www.usitc.gov/mtbps).

Commission staff have met and spoken with numerous individuals and trade associations on multiple occasions who may have interest in utilizing the portal once it is made available. The June 15, 2016

notice was discussed and referenced in these conversations and Commission staff encouraged comment on the notice and supporting information.

Comment Received	How Addressed
<p>From Whom</p> <p>As part of the application procedure, you might want to consider asking if the product has previously been the subject of a duty suspension, and if so to provide the 9900 number.</p> <p>Fanwood Chemical, Inc.</p>	<p>The Commission has addressed this comment in question 5 on the Information for Petitions form.</p>
<p>Please make the requirement to provide a copy of a liquidated customs entry form optional.</p> <p>Fanwood Chemical, Inc. Nation Ford Chemical National Association of Manufacturers (NAM) Society of Chemical Manufacturers and Affiliates (SOCMA) International Business-Government Counsellors, Inc. (IBC) Valent U.S.A. Corporation Firmenich Corporation</p>	<p>The Commission has incorporated this comment.</p> <p>Providing documentation will be optional.</p> <p>Please see question 10 on the Information for Petitions form.</p>
<p>Please consider asking for a copy of a “certificate of imported goods” as a substitute for the liquidated customs entry form.</p> <p>Fanwood Chemical, Inc. Nation Ford Chemical NAM SOCMA</p>	<p>The Commission has incorporated this comment.</p> <p>The Commission has provided the user with options to upload documents other than the liquidated customs entry form, of which a “certificate of imported goods” could be one.</p> <p>Please see question 10 on the Information for Petitions form.</p>
<p>Publish a list of all nominations and include the CAS number and HTS number.</p> <p>Fanwood Chemical, Inc. SOCMA IBC</p>	<p>The Commission has addressed this comment.</p> <p>As required by the legislation, the Commission intends to publish received petitions that meet the requirements set forth in the legislation. The list of received petitions will include the CAS number and HTS number.</p>
<p>Design the system to accept multiple nominations without having to re-enter the “boiler plate” details.</p> <p>Fanwood Chemical, Inc. Unilever</p>	<p>The Commission has chosen not to incorporate this comment at this time for the reasons set forth below.</p> <p>While the Commission understands the utility of this functionality, time and resource constraints will not permit this feature to be included in the initial system build.</p>

<p>Allow petitioners to go back within a short period of time to correct/update details that had been submitted.</p> <p style="text-align: right;">Fanwood Chemical, Inc. Outdoor Industry Association</p>	<p>The Commission has chosen not to incorporate this comment at this time for the reasons set forth below.</p> <p>While the Commission understands the utility of this functionality, time and resource constraints will not permit this feature to be included in the initial system build.</p>
<p>Language detailing treatment of customs entry documentation (including liquidated entry summaries and Certificates of Imported Goods) as CBI should be included in the final request for information.</p> <p style="text-align: right;">NAM IBC Valent U.S.A. Corporation Firmenich Corporation</p>	<p>The Commission has incorporated this comment.</p> <p>Any document provided to the Commission pursuant to question 10 on the Information for Petitions form will be treated as CBI in accordance with 19 U.S.C 1332(g).</p>
<p>Revise the section requiring a customs ruling that would allow companies to indicate that they are not aware of the existence of an older ruling.</p> <p style="text-align: right;">NAM</p>	<p>The Commission has incorporated this comment.</p> <p>Please see question 9 on the Information for Petitions form.</p>
<p>Include an additional field to allow for the submission of other chemical synonyms to increase transparency.</p> <p style="text-align: right;">NAM</p>	<p>The Commission has chosen not to incorporate this comment at this time for the reasons set forth below.</p> <p>Based on experience from previous cycles, the Commission considers the structural name and CAS number to be the clearest ways to identify a product. However, should petitioner wish to include other chemical synonyms it may choose to do so in the article description field.</p>
<p>The online portal should include the ability to save information prior to submitting, so that the user and involved colleagues are able to review the information without the risk of losing the information already inputted due to a technological glitch, malfunction, or simple human error.</p> <p style="text-align: right;">Outdoor Industry Association</p>	<p>The Commission has chosen not to incorporate this comment at this time for the reasons set forth below.</p> <p>While the Commission understands the utility of this functionality, time and resource constraints will not permit this feature to be included in the initial system build.</p>
<p>Eliminate the requirement that petitioner indicate whether they are requesting a duty suspension or reduction and, if a reduction, require petitioner provide the requested rate.</p>	<p>The Commission has chosen not to incorporate this comment at this time for the reasons set forth below.</p> <p>The Act requires the Commission, in Sec. 3(b)(3)(C)(i)(IV) of the Act, to provide, as part of its preliminary report, “An estimate of the amount of loss in revenue to the United States that would no</p>

<p>NAM IBC Valent U.S.A. Corporation Firmenich Corporation</p>	<p>longer be collected if the duty suspension or reduction takes effect” and in Sec.3(b)(3)(C)(ii)(III) of the Act “A list of petitions for duty suspensions and reductions for which the Commission recommends modifications to the amount of the duty suspension or reduction that is the subject of the petition to comply with the requirements of this Act, with the modification specified.” The comments presuppose that the Commission will know in all instances what a petitioner wants, and the Commission does not know this. The Commission intends to provide help and support documentation that may provide guidance with respect to the concern raised by this comment.</p>
<p>Request that the ITC limit or eliminate the requirement to provide estimates of import data for the proposed product for the next five years.</p> <p>NAM</p>	<p>The Commission has chosen not to incorporate this comment at this time for the reasons set forth below.</p> <p>Sec. 3(b)(2)(H) of the Act states that a petition shall include “An estimate of the total value, in United States dollars, of imports of the article for each of the 5 calendar years after the calendar year in which the petition is filed, including an estimate of the total value of such imports by the person who submits the petition and by any other importers, if available.” Sec. 3(b)(2)(K) of the Act states that a petition shall include “Such other information as the Commission may require.” Sec. 3(b)(3)(C)(i) (IV) of the Act requires that the Commission provide, as part of its preliminary report, “An estimate of the amount of loss in revenue to the United States that would no longer be collected if the duty suspension or reduction takes effect.” The Commission has concluded it must collect this information from petitioner in order to meet its statutory obligations. The Commission recognizes that these figures are estimates.</p>
<p>As providing import data may require submission of CBI, clarify that any such data will be handled accordingly.</p> <p>NAM IBC Valent U.S.A. Corporation</p>	<p>The Commission has incorporated this comment.</p> <p>Data provided in question 12b on the Information for Petitions form may contain CBI and the Commission will treat CBI in accordance with 19 U.S.C 1332(g).</p>
<p>Clarify whether import data is provided by quantity or value.</p> <p>NAM</p>	<p>The Commission has incorporated this comment (value).</p> <p>Please see question 12 on the Information for</p>

	Petitions form.
Clarify whether any data submitted would apply only to petitioner's imports as opposed to all U.S. imports.  NAM	The Commission has incorporated this comment.  Please see question 12c on the Information for Petitions form.
Reformulate the section requiring certification that the proposed duty change is available to any person importing the article so as not to exclude patented compounds or other products for which there will be limited tariff benefits.  NAM	The Commission has addressed this comment in question 15 on the Information for Petitions form.
Add a question to the Information for Petitions form: "Is the product an input or sold as a finished good in U.S. commerce?"  RPFMA	The Commission has addressed this comment in question 11d on the Information for Petitions form.
Add a question to the Information for Petitions form: "Provide estimates of the annual duty savings from a duty suspension for the product for full 2015 and 2016 and for the next 5 years."  RPFMA	The Commission has chosen not to incorporate this comment at this time for the reasons set forth below.  The Commission is requiring petitioner provide the proposed rate of duty reduction and import data for the period specified in the comment. While the Commission understands the utility of this additional information, the Commission does not need this information in order to conduct its analysis.
Amend question 4 on the Comment form to clarify that information is sought for both current and past domestic producers.  RPFMA	The Commission has addressed this comment in question 4b on the Information for Comments form.
Add questions to the Information for Comments form regarding production of like or directly competitive products  RPFMA	The Commission has addressed this comment in question 4a-c on the Information for Comments form.
Add a question to the Information for Comments form: "Are you a domestic wholesaler or retailer of the article?"  RPFMA	The Commission has chosen not to incorporate this comment at this time for the reasons set forth below.  While the Commission understands the utility of this additional information, the Commission does not need this information in order to conduct its analysis.
Indicate that past, current, or future domestic producers may take the position that they do not object to the request.  RPFMA	The Commission has addressed this comment in questions 4 and 6 on the Information for Comments form.

<p>Instead of requiring petitioners to supply contact information for other U.S. importers or beneficiaries, the Commission should ask petitioners to provide such information “if possible”</p> <p style="text-align: right;">IBC Valent U.S.A. Corporation Firmenich Corporation</p>	<p>The Commission has chosen not to incorporate this comment at this time for the reasons set forth below.</p> <p>Sec. 7(3)(A) of the Act requires petitioners submit “The contact information for any known importers of the article to which the proposed duty suspension or reduction would apply.” The Commission feels question 12c on the Information for Petitions form addresses what is required by the legislation.</p>
<p>The ITC should create a standard that objecting companies must meet to show domestic production. Instead of accepting claims of planned production at face value, the Commission should require companies to submit information showing substantial planning and investment sufficient to establish the likelihood of domestic production of the article during the period covered by the duty suspension petition.</p> <p style="text-align: right;">IBC Valent U.S.A. Corporation</p>	<p>The Commission has chosen not to incorporate this comment at this time.</p> <p>The Commission notes that Sec. 7(5) of the Act defines the term “domestic production” and provides, in part, that the production be that “for which a domestic producer has demonstrated production, or imminent production, in the United States.”</p>
<p>To prevent the inclusion of “use” descriptions in proposed Ch. 99 duty suspension or reduction provisions, we propose that the question regarding article descriptions be revised to state: “A precise physical description of the article, without reference to the article’s use, for the proposed duty suspension or reduction to be included in the amendment to subchapter II of chapter 99 of the HTS.”</p> <p style="text-align: right;">CBP</p>	<p>The Commission has incorporated this comment.</p> <p>Please see question 6 on the Information for Petitions form.</p>
<p>Add specific language to the questions on the Comments form addressing:</p> <ul style="list-style-type: none"> <li>• Intermediate goods</li> <li>• Past production</li> <li>• Inventory</li> <li>• Production capacity</li> <li>• Manufacturing limitations</li> <li>• Exclusive supply contracts and internal production</li> </ul> <p style="text-align: right;">Unilever</p>	<p>The Commission has chosen not to incorporate this comment at this time.</p> <p>The Commission may choose to address the concerns raised in this comment in help and support documentation that will accompany the portal.</p>
<p>Amend the question regarding other beneficiaries to include “industry/trade association information, in case a larger group of users is known for use of the product.”</p>	<p>The Commission has chosen not to incorporate this comment at this time for the reasons set forth below.</p>

	While the Commission recognizes that some products may have a large number of beneficiaries, Section 3(C)(V) of the Act requires the Commission to provide in its report to Congress “The likely beneficiaries of each duty suspension or reduction, including whether the petitioner is a likely beneficiary.” Providing the name of trade associations in place of likely beneficiaries will not help the Commission address this requirement.
Unilever	
Amend the question regarding like or directly competitive products to require an explanation as to why domestically produced products are not like or directly competitive.	The Commission has incorporated this comment.  Please see question 13b on the Information for Petitions form.
Unilever	
Clarify the question regarding independent representation.	The Commission has chosen not to incorporate this comment at this time for the reasons set forth below.  The Commission intends to provide help and support documentation that will define this term.
Outdoor Industry Association	
Define “commercially available” and require domestic opposition provide proof of production capacity including quality, price and volumes.	The Commission has chosen not to incorporate this comment at this time.  The Commission may choose to provide additional guidance in help and support documentation that will accompany the portal.
Outdoor Industry Association	

## 9. Payments or gifts

Not applicable. Participants will not be provided with any payments or gifts for their responses.

## 10. Assurances of confidentiality

After a user logs into the portal, he/she must acknowledge and accept the confidentiality provisions. These provisions provide an assurance of confidentiality, indicating that the Commission will not release information which the Commission considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released by the Commission, or such party subsequently consents to the release of the information. The user will be provided notice, at the time of submission, that the Commission will share the petition information, including confidential business information, with staff at the Department of Commerce (DOC) and U.S Customs and Border Protection (CBP) who are responsible for producing the DOC report mandated by the legislation. In addition, the user will be provided notice that the Commission may use import data estimates to calculate the annual revenue loss estimate, a figure which will be provided to the Committees and made publicly available in the Commission’s preliminary and final reports, as the legislation requires.

## 11. Sensitive information

The Commission is not seeking information on issues of a sensitive nature involving persons or firms.



## 12. Respondents' projected cost burden

The Commission has reduced the reporting burden on petitioners and commenters by limiting the length and complexity of the information required. Furthermore, the system only requires responses that the Commission believes to be readily available from firms' existing records.

The average reporting burden is estimated to be:

Number of petition entities:	(No.)	5,000
Frequency of response:	(No.)	1
Annual burden per respondent:	(hours)	8
Total burden for petitioners:	(hours)	40,000

These estimates are based on engagement with the public and comments and feedback received, as well as industry knowledge. It is estimated that submitting a petition, including time to gather necessary information, would take approximately 8 hours depending on the size and complexity of the firm. The burden on individual respondents may vary.

Number of commenting entities:	(No.)	14,000
Frequency of response:	(No.)	1
Annual burden per respondent:	(hours)	2
Total burden for commenters:	(hours)	28,000

These estimates are based on the estimated number of petition submissions, as well as industry knowledge. It is estimated that submitting a comment, including time to gather necessary information, would take approximately 2 hours depending on the size and complexity of the firm. The burden on individual respondents may vary.

The Commission has included a notice of the above response burden averages, along with a request that respondents send comments to the Commission and to OMB.

The combined annualized cost to all respondents for the estimated hour burdens identified above is as follows:

Petition:	Cost = 40,000 hours x \$68.75* per hour = \$2,750,000
Comment:	Cost = 28,000 hours x \$68.75* per hour = \$1,925,000
Total Cost:	\$4,675,000

\*This is the same hourly cost estimate used in item 14 below. The Commission projects that this is an accurate hourly cost estimate for personnel who will likely complete the petition.

## 13. Annual public response burden

This collection of information will recur once in 2019. The Commission estimates that the public response burden in 2016 and 2019 will be the same.

a. Total capital and start-up cost component: The Commission does not expect any capital and start-up costs because all information likely already exists in firms' records storage facilities.

b. Total operation and maintenance and purchase of service component: The Commission does not expect petitioners will need to purchase any services in completing the questionnaire.

#### **14. Federal change in burden**

The estimated total cost to the Federal Government is \$8,082,500 as detailed below. No new equipment will be purchased because existing equipment will be used to process the petitions and comments.

Personnel cost*	= \$7,617,500
Operational costs**	= \$ 465,000
Total cost	= \$8,082,500

\*The hourly figure was approximated by dividing the Commission's average salary level (\$143,000) by the number of work hours per year (2,080), which is equivalent to an average cost of \$68.75 per hour. Personnel costs include staff time devoted to development and maintenance of the web portal; development of an effective process and documentation; intake of petitions and comments, analysis and review of the submissions, as well as related research; calls to petitioners and commenters from Commission staff to ensure that the organizations' petitions and comments are accurate and to clarify any issues; and preparation of the preliminary and final reports. The Commission estimates approximately 70 staff will spend a total of 110,800 personnel hours (2,770 personnel weeks) on the activities described above, which is approximately 100 percent of the total personnel hours the Commission budgeted for the program.

\*\*Operational costs include certain costs associated with the development and maintenance of the web portal, as well as, office space.

#### **15. Program change justification**

The Commission currently imposes no reporting burden on firms with respect to requests for temporary duty suspensions and reductions. The burden on firms increased because of legislation mandating a process whereby the Commission will be receiving and reporting on petitions for temporary duty suspensions and reductions. This collection of information will occur in 2016 and 2019.

#### **16. Project plan and schedule**

For the 2016 cycle, the Commission must begin accepting petitions not later than October 15, 2016. The public then has sixty (60) days to submit their petitions. Thirty (30) days after the expiration of the submission period, the Commission must publish the petitions it has received that meet the requirements set forth in the legislation. The public has forty-five (45) days from publication of the petitions to comment on those that were published. Forty-five (45) days after the close of the comment period, the Department of Commerce must submit, to Congress and the Commission, its statutorily required report on the petitions. Sixty (60) days after the Commerce report is due, the Commission's preliminary report is due to Congress and will be published on the Commission's website. Not later than sixty (60) days after submission of the preliminary report, the Commission's final report is due to the Committees and will be published on the Commission's website. The entire process at the Commission is, therefore, approximately 300 days from start to finish. Congress has expressed a sense that it will consider a miscellaneous tariff bill within ninety (90) days of the Commission submitting its final report.

#### **17. Non-display of expiration date**

Not applicable.

#### **18. Exceptions to certification statement to form OMB 83-I**

Not applicable.